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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,867	12/13/2001	Kevin P. Baker	P2830P1C60	6854
35489	7590	10/03/2005	EXAMINER	
HELLER EHRMAN LLP 275 MIDDLEFIELD ROAD MENLO PARK, CA 94025-3506			STANDLEY, STEVEN H	
			ART UNIT	PAPER NUMBER
			1649	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,867

Applicant(s)

BAKER ET AL.

Examiner

Steven H. Standley

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33, 38-40 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33, 38-40, 44-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed 7/08/05 has been made of record. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action. The cancellation of claims 48-53 is in the amendment of 7/08/05 is acknowledged. Claims 33, 38-40, and 44-47 are under examination.

Objections/Rejections: Withdrawn

Oath/Declaration

2. Objection to the Oath/declaration is withdrawn due to applicant's submission of an Oath/declaration signed and dated, with no modifications, by Dan Eaton.

Claim Objections

3. Objection to claim 48 is withdrawn due to applicant's cancellation of the claim.

Claim Rejections - 35 USC § 112

4. The rejection of claims 48-53 under 35 USC § 112, 1st paragraph, enablement is withdrawn due to applicant's cancellation of the claims.

5. The rejection of claims 48-53 under 35 USC § 112, 1st paragraph, written description is withdrawn due to applicant's cancellation of the claims.

Objections/Rejections: Maintained/New Grounds

Claim Rejections - 35 USC § 101

6. Rejection of claims 33, 38-40, and 44-47 under 35 USC § 101 is maintained for the reasons made of record. Applicant's arguments have already been fully considered in the previous the office actions of 7/14/04 and 4/12/05 and therefore the rejection is maintained.

Claim Rejections - 35 USC § 112

7. Rejection of claims 33, 48-40, and 44-47 under 35 USC § 112, 1st paragraph, enablement is maintained for the reasons made of record. Applicant's arguments have already been fully considered in the previous office actions of 7/14/04 and 4/12/05 and therefore the rejection is maintained.

Conclusion

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H. Standley whose telephone number is (571) 272-3432. The examiner can normally be reached on 8:00-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Janet Andre can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven Standley, Ph.D.

 9/26/05



**LORRAINE SPECTOR
PRIMARY EXAMINER**